

**GROUND WATER MANAGEMENT COMMISSION
ADVISORY TASK FORCE
17TH MEETING
ROUND TABLE DISCUSSION
SUMMARY**

Friday, February 21, 2003

Prepared by:

Department of Natural Resources

Office of Conservation

Ground Water Management Staff

Call to Order

Advisory Task Force Members in attendance:

Karen Gautreaux, Governor's Office

Jess Barr, Cotton Producers Association

Bill Branch, LSU Agricultural Center, Designee

Rene` De Hon, University of Louisiana at Monroe, Geology Department

Timothy W. Duex, University of Louisiana at Lafayette, Geology Department

Henry T. Graham, Jr., Louisiana Chemical Association

Bradford Hanson, Louisiana Geological Survey

Senator Fred Hoyt, President of the Senate, Designee

Randy Lanctot, Louisiana Wildlife Federation

Steve Levine, Association of Public Utilities

R. Michael Lyons, Mid-Continent Oil & Gas Association

Kyle McCann, Louisiana Farm Bureau

Olevia McDonald, Sparta Ground Water Conservation District

Jeffrey A. Nunn, L.S.U. Department of Geology

Eugene H. Owen, Municipal Water Association

Bradley E. Spicer, Soil and Water Conservation

Charles W. Stahr, Louisiana Pulp and Paper Association

C. A. "Buck" Vandersteen, Louisiana Forestry Association

Linda Walker, League of Women Voters – New Orleans

Michael W. Wascom, Citizens for a Clean Environment

Ground Water Management Commissioners in attendance:

Bill Cefalu, Police Jury Association

Dean Lowe, Department of Health & Hospitals, Office of Public Health

Brad Spicer, Department of Agriculture and Forestry

Phil Boudreaux, Department of Natural Resources

Linda Zaunbrecher, Farm Bureau Member

Attorneys on the Panel:

William L. Goodell, Jr., Environmental Specialist from Lafayette

Jerry Speir, New Orleans

Burton Guidry, Office of the Attorney General

Kenneth Murchison, LSU Paul M. Hebert Law Center

Brent G. Sonnier, Onebane, Bernard, Torian, Diaz, McNamara & Abell

Task Force Members participating on Panel

Henry Graham, Jr., Louisiana Chemical Association

Steve Levine, Association of Public Utilities

R. Michael Lyons, Mid-Continent Oil and Gas

Linda Walker, League of Women Voters

Michael Wascom, Citizens for a Clean Environment

Old Business: Discussion of the *Statewide Water Management Program – A Plan for Implementation*: Item 1. The legal status of subterranean water as a mineral under the Mineral Code.

Power Point Presentation by Mr. Brent Sonnier

Attorney, Brent Sonnier, gave a power point presentation regarding ground water rights and Louisiana Constitutional, Civil and Statutory Law and Jurisprudence. There are four general ground water rights doctrines; absolute ownership, prior appropriation, reasonable use and correlative rights. Mr. Sonnier gave the history of water rights prior to Act 446. Louisiana has followed the “Rule of Capture” and Act 446 lays the foundation for departure from that rule.

The proposed model legislation and rules, expansion of jurisdiction, the three ground water regions, the five water resource districts, a 3-tiered administrative process and hearings/decisions were discussed.

Panel Discussion Summary

Several questions were addressed by the panel with the consensus groundwater remain defined as a mineral:

- Regarding ownership of the groundwater, the state owns the groundwater until it is pumped out of the ground. Therefore, the state has the right to regulate groundwater and the regulatory agency must be able say “no” to certain uses at certain times.
- Litigation and unintended consequences can not be avoided but a program can be designed to run as smooth as possible. There was one water fight in the past 40 years in Louisiana; so, there is no reason that there will be a flood of disputes just because a program is in place to handle disputes. In addition, the question needs to be asked if it is a greater risk for the public good to do nothing or is it better to regulate.
- Although there are many similarities between oil and gas, it may not be wise to regulate water the same way. There are many concerns with trying to accomplish too much at this early stage of water regulation; therefore, groundwater should be left in the Mineral Code. It can always be taken out later.
- While we do not want to delve too much into regulating, it is important that we do as much as possible or there can be unfavorable consequences to the proper management of water.

Several observations were made:

- More that one type of correlative right scheme than basing the amount allowed to be pumped to acreage owned. For example, a reasonable share or some kind of hierarchy scheme.
- Need to maintain tracking indicators and aquifer information.

- Can not manage just drinking water because there are technologies that can make drinking water from non-potable water.

Karen Gautreaux recommended the staff develop recommendations to present to the Advisory Task Force.

Schedule of the next Meeting

The Advisory Task Force will meet on Wednesday, March 12, 2003 at 9:30 a.m. in the LaSalle Building – Griffon Room.

Adjourn

The meeting adjourned at 12:15 p.m.